

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
The Development of Operational,)
Technical and Spectrum Requirements)
For Meeting Federal, State and Local)
Public Safety Agency Communication)
Requirements Through the Year 2010)
)
Establishment of Rules and Requirements)
For Priority Access Service)

WT Docket No. 96-86

To: The Commission

JOINT PETITION FOR RECONSIDERATION OF
AMERICAN ASSOCIATION OF
STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
FORESTRY CONSERVATION COMMUNICATIONS ASSOCIATION,
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION, AND
NATIONAL ASSOCIATION OF STATE FORESTERS

The American Association of State Highway and Transportation Officials ("AASHTO"), the Forestry Conservation Communications Association ("FCCA"), the International Association of Fire Chiefs, Inc. ("IAFC"), the International Association of Fish and Wildlife Agencies ("IAFWA"), the International Municipal Signal Association ("IMSA") and the National Association of State Foresters ("NASF") (collectively referred to herein as "Joint Petitioners"), pursuant to Section 1.429(d) of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), by their attorneys, hereby respectfully submit this

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Petition for Reconsideration ("Petition") of the First Report and Order ("First Report") adopted by the Commission in the above-styled proceeding.^{1/} This Petition seeks modification of the rules adopted for implementation of the new public safety spectrum allocation at 746-806 MHz (hereinafter sometimes referred to as the "700 MHz band"), first, to provide a period of one year for states to opt out of the designated multi-jurisdiction regions, and second, to provide a transition period during which radio equipment may be immediately deployed that utilizes 12.5 kHz analog modulation.

I. PRELIMINARY STATEMENT

The Joint Petitioners filed Joint Comments and Reply Comments in this proceeding on December 24, 1997 and January 26, 1998. The Joint Petitioners, as described in those Joint Comments, represent management of state and local government agencies responsible for emergency medical service, fire, forestry and highway public safety functions.

In the comment phase of this proceeding, the Joint Petitioners advocated the adoption of statewide planning committees to avoid problems inherent in the regional committee approach used in the 800 MHz band. The Commission instead decided on a regional planning approach for "general use" spectrum, using the 800 MHz band as a model. In addressing concerns raised by the Joint Petitioners, the FCC provided "opt out" provisions to the 700 MHz band Regional Planning Committees ("RPCs") which will allow members from a state that either is included in a multi-state region (e.g., Maryland, Virginia, and D.C.) or is in more than one region (e.g.,

^{1/} 63 Fed. Reg. 58,645 (Nov. 2, 1998).

California), the right to opt out and form a new statewide 700 MHz RPC. Additionally, public safety interests in a state included in more than one region (e.g., Pennsylvania) may elect to join a single existing RPC rather than remaining divided among several RPCs or forming a new RPC. To opt out, all regional planning members/representatives from the state seeking to opt out must reach a consensus decision. The FCC requests all public safety interests seeking to opt out and form a statewide region to do so within 120 days from the effective date of the rules adopted in the First Report. First Report at ¶ 85.

In comments, Joint Petitioners also advocated the adoption of analog frequency modulation as the baseline emission standard for interoperability. Because most public safety equipment in operation uses analog FM, adoption of such a baseline standard would enable some public safety entities to expand existing 800 MHz systems and use the 746-806 MHz band.

In the First Report, the Commission also rejected this approach, instead requiring all 700 MHz band public safety equipment to use digital modulation. The FCC will allow mobile and portable units to have analog modulation capability as a secondary mode only. The Commission raised several concerns about continuing with analog FM, including investment in an obsolete technology, diminishment of the digital equipment market if less expensive analog-only equipment is available, and lack of spectrum for digital equipment if analog equipment use continues. First Report at ¶¶ 110, 128.

II. RECONSIDERATION REQUESTED

A. Provide a Period of One Year for States to Opt out of the Designated Regions.

Joint Petitioners request the Commission allow sufficient time for states to opt out of the regional planning process. The time allotted by the Commission should be short enough to encourage rapid formation of planning committees, but at the same time, should be long enough for ample consideration of the complex issues involved. The time allotted of 120 days is simply too short for many participants to consider whether the regional approach will work, or whether their interests would be better served within a statewide regional planning body. Participants may initially choose to see if the regional planning process will work, but if it becomes apparent after discussion that it will not, there will be insufficient time to opt out under the Commission's plan.

Joint Petitioners suggest one year as an appropriate amount of time for a state to opt out of the regional planning process. This allows for sufficient time to work within the RPCs, and then opt out if a different approach will better serve public safety interests. An additional eight months will not unduly delay the planning process. This added time may, in fact, speed up the process if parties initially find the regional approach works and are satisfied, whereas, if participants feel pressured to deal with opting out right away, contentious and intractable debate may immediately ensue that could sidetrack the planning process,. Ultimately, it is in the public interest to allow additional flexibility for entities concerned with public safety to determine the appropriate approach to planning.

B. Provide a Transition Period During Which Radio Equipment May Be Immediately Deployed That Utilizes 12.5 kHz Analog Modulation Channels.

In the First Report, the Commission designated digital as the primary modulation type, with analog allowed as a secondary type but only in addition to the digital mode. The Commission designated a 6.25 kHz bandwidth standard, and left development of digital standards to a national coordinating body.

Based on information received from equipment manufacturers, Joint Petitioners understand that it likely will be 4-6 years, at a minimum, to promulgate a 6.25 kHz digital standard and 18 months to two years thereafter to progress to equipment manufacturing. During this time, the new 700 MHz public safety band will lie fallow, even in those areas not encumbered by UHF television operations.

Joint Petitioners accept the Commission's mandate for implementation of this band utilizing 6.25 kHz channeling and common digital modulation (ANSI standard) for interoperability. Notwithstanding, Joint Petitions believe an accommodation should be made to allow rapid access to these channels, subject to the RPC process, for those needing spectrum now or in the near future.

To allow rapid implementation of equipment manufacturing and deployment in the 700 MHz band, Joint Petitioners request that the Commission adopt a transitional process that will allow the widely available technology of 12.5 kHz channelized analog FM equipment to be used immediately, consistent with the appropriate regional and national planning processes. A workable plan would be to allow licensing 12.5 kHz analog equipment on all systems installed on or before January 1, 2007, or two years after approval of the 6.25 kHz digital interoperability

standard, whichever occurs later. The cutoff date of January 1, 2007 corresponds to the time in which TV broadcast stations are required to vacate the band.^{2/} After that time, 6.25 kHz channelized equipment will be required for all new licensees, and such licensees would have to comply with digital standards. In addition, all radios operating in the 700 MHz band should be required to conform with the 6.25 kHz channel, digital modulation for both general use and interoperability channels by December 31, 2009.^{3/} This would allow for a predictable period in which to amortize equipment — for the early adopters, up to ten years, and for later adopters, a shorter, but still predictable, period of time. Those implementing systems in the latter part of this period could go directly to fully compliant systems, or accept a shorter useful life on their 12.5 kHz analog systems.

III. CONCLUSION

The relief requested in this Petition will serve the public interest by allowing a sufficient time for public safety interests to opt out of the established regions and form a new statewide region, if they so choose. Also, it will allow for a far more rapid deployment of equipment during a limited transition period than the rules set forth in the First Report will allow. These limited modifications to the First Report will serve to greatly improve public safety in the near

^{2/} Where such stations exist, non-interference requirements set forth in the First Report will apply.

^{3/} This date would be subject to extension by the Commission in the event development of the digital standard is unduly delayed and digital equipment is not readily available to allow timely conversion.

term, and at the same time, support the Commission's goals of a rapid and orderly deployment of public safety equipment in the 700 MHz band.

WHEREFORE, THE PREMISES CONSIDERED, the Joint Petitioners respectfully request the Federal Communications Commission to reconsider its First Report and Order in establishing regulations to implement the new 700 MHz band public safety allocation, and to adopt rule changes consistent with that described above.

Respectfully submitted,

**AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS**

**FORESTRY CONSERVATION COMMUNICATIONS
ASSOCIATION**

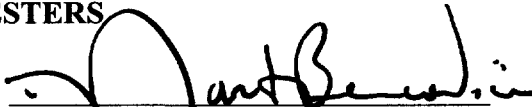
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